REMARKS

With entry of this amendment, claims 1-54 are pending in the application. By this amendment, claims 3, 4, 6, 7, 11-16, 18, 23, 25, 28, 30, 32, 34, 35, 37, 38, 40, 42, 43, 45, 47, 48, 50-52, and 54 have been amended to correct informalities and for clarity in accordance with the Office's suggestions. Certain informal or typographical amendments have also been made to the specification. All of the amendments herein are supported by the original specification and claims, and no new matter has been added to the application

Priority

The Office notes that the original priority statement in the Application should be moved in placement below the Title. Applicants have amended the priority herein, and the placement of the amended priority statement satisfies the noted formality of placement.

Claim Objections

The Office Action sets forth various claims objections at pages 2-6, which are noted by the Office to represent informalities in the application. Appropriate amendments have been made to the claims to rectify each of these informalities. These corrections are made for clarity and do not narrow the scope of the subject claims. Reconsideration and withdrawal of the claim objections is therefore respectfully requested.

Patentability Under 35 USC § 112, Second Paragraph

Claims 3, 4, 7, 10, 12-45, 47, 48, and 52-54 are rejected under 35 U.S.C. 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. At pages 6-9 of the Office Action, the Office sets forth particular objections to support rejections of specific claims. Applicants note that these rejections are also directed to informalities or items of form. Appropriate amendments have been made to the claims to rectify each of these informalities. These corrections are also made for clarity in accordance with the Office's suggestions and do not narrow the scope of the subject claims.

Concerning the rejection of claims 3, 4, 7, 12-15, 18, 19, 24, 28, and 37 for alleged "excessive use of alternative language", Applicant respectfully disagrees with the Office that such alternative language is indefinite. Nonetheless, the amendments herein render the issue moot. Applicant notes that the majority of the subject amendments identify terms that either encompass, or are considered equivalent to, the alternate terms originally set forth in the claims and now withdrawn. These amendments thus do not relinquish any subject matter in the application. The alternate terms now withdrawn, to the extent they may differ in scope from the extant terms, could readily be set forth in separate claims to obviate the alleged indefiniteness issue. Applicant therefore reserves the right to submit claims directed to any of the withdrawn subject matter from claims 3, 4, 7, 12-15, 18, 19, 24, 28, and 37 in this or a related application.

Patentability Under 35 USC § 102

Claims 1-13, 45 and 46 are rejected under 35 U.S.C. 102(e) as allegedly anticipated by Quay et al. ('521). Applicant respectfully submits that the stated rejection is obviated by the amendment herein to the priority of the instant application, which relates priority back in this case to a common parent application to the '521 patent, United States Patent Application No. 08/709,207, filed August 27, 1996 (Now USPN 5,798,266). The amended priority is legally valid on the basis of the collateral priority claim in the instant application to, and copendency and coinventorship with, U.S. Patent Application No. 10/404,866, filed March 31, 2003, which is a continuation of U.S. Patent Application No. 09/435,131 filed November 5, 1999, which is a continuation-in-part of U.S. Patent Application No. 08/709,207.

The Office contends that all of the features of the rejected claims are disclosed in the '521 application (i.e., to support a 102 rejection, each and every limitation in the claims must be fully described and enabled by the '521 patent). On this basis, to the extent that '521 patent discloses the instantly claimed subject matter, the application is entitled to priority of disclosure relating back to the founding application of the '521 patent. Withdrawal of the rejection of claims 1-13, 45 and 46 under 35 U.S.C. 102(e) as allegedly anticipated by Quay et al. ('521) is therefore earnestly solicited.

Claims 1-13, 45 and 46 are rejected under 35 U.S.C. 102(f) on the basis that the applicant allegedly did not invent the claimed subject matter. For the reasons noted above, the stated

rejection is also obviated by the amendment herein to the priority of the instant application—relating priority back to a common parent application to the '521 patent. Accordingly, withdrawal of the rejection of claims 1-13, 45 and 46 under 35 U.S.C. 102(f) is respectfully requested.

Claims 1-4, 12, 13 and 47-49 are rejected under 35 U.S.C. 102(e) as allegedly anticipated by Covington et al. ('513). Without addressing the merits of the rejection and the specific teachings of Covington et al., Applicant respectfully submits that the subject reference is not prior art in light of the amended priority in the instant application. The newly added parental application, United States Patent Application No. 08/709,207, was filed August 27, 1996, clearly antedating the Covington et al. '513 disclosure. Applicant further notes that the Office has taken a position that the '521 patent, which is colineal in its priority claim to United States Patent Application No. 08/709,207, fully discloses the instantly claimed subject matter. If the Office's position is accepted (which Applicant declines to address on the merits), then the Covington et al. '513 disclosure cannot serve as prior art for any aspect of the instantly claimed invention. The rejection of claims 1-4, 12, 13 and 47-49 under 35 U.S.C. 102(e) is therefore believed to be overcome.

Double Patenting

Claims 1-8, 11, 12,45 and 46 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3,5-9 and 11 of U.S. Patent No. 6,287,521. The Office recognizes that the conflicting claims are not identical, but asserts that they are not patentably distinct from each other.

Applicant notes the provisionality of this double patenting rejection, and respectfully declines to address the merits of the rejection until subject matter is allowed in one of the allegedly conflicting applications. Applicant reserves the right to challenge the merits of all aspects of the double patenting rejection, or to file a Terminal Disclaimer in one of the allegedly conflicting applications, as the circumstances of the cases warrant.

Allowable Subject Matter

Applicant acknowledges the Office's determination that claims 50 and 51 are allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, and that claims 14-44 and 52-54 are allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in the Office Action, and to include all of the limitations of the base claim and any intervening claims.

CONCLUSION

In view of the foregoing, Applicant believes that all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes that a telephone conference would expedite prosecution of this application, please telephone the undersigned at 425-455-5575.

Respectfully submitted,

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